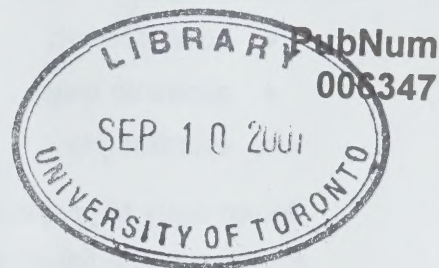


CA20N  
L  
- Z050

**EMPLOYMENT STANDARDS – FACT SHEET**

# Seasonal Work



## What is the *Employment Standards Act*?

The *Employment Standards Act* (the Act) is the law that contains Ontario's basic rules about employing people and working. Both employees and employers have rights and responsibilities under the Act.

## What does the Act do?

The Act gives the minimum standards for:

termination notice	unpaid wages	termination pay
severance pay	public holidays	vacation pay
hours of work	minimum wage	overtime pay
pregnancy leave	parental leave	homeworkers
Sunday work	domestic employees	

It also has rules on equal pay for equal work, benefit plans, lie detector use, wage and pay statements and employer records.

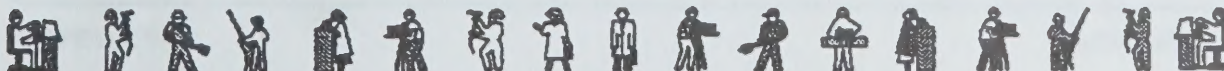
## Does the Act apply to all employees in Ontario?

Most employees in Ontario are covered by this provincial law. But the Act does not apply to an employee or an employer under federal labour jurisdiction. The *Canada Labour Code* applies instead. The Code covers employees in such workplaces as:

- post offices
- radio stations
- banks
- airlines
- railways
- television stations

For more information about the *Canada Labour Code*, contact the nearest Human Resources Development Canada – Labour Programs Office.

Most seasonal workers are covered by the *Employment Standards Act*. Some, however, may be covered by only parts of the law.



For example, the rules about:

- hours of work
- public holidays, and
- minimum wages
- vacation pay
- overtime pay

do not apply to people employed as:

- commercial fishers or
- farm employees engaged in the primary production of eggs, milk, grain, seed, fruit, vegetables, maple products, honey, tobacco and the raising and keeping of pigs, cattle, sheep or poultry.

The Act also has special provisions for people employed to harvest fruit, vegetables and tobacco.

This fact sheet will tell you about the major standards that affect the different types of seasonal employees. To find out if your job or type of workplace is covered, please call 416-326-7160 or 1-800-531-5551.

**Note:** Some of these standards are complicated. You may find it helpful to have one of the following fact sheets available depending on your questions:

Hours of Work	Vacation Pay & Vacation with Pay
Public Holidays	Overtime Pay
Minimum Wage	Agricultural Workers
Severance Pay	Termination of Employment

## Types of Seasonal Employment

### Agricultural Workers

There are different types of agricultural workers and the rules vary for each group.

#### *Farm workers*

A farm worker is a person employed to work on a farm. The work they do is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, maple products, honey and tobacco and the raising and keeping of pigs, cattle, sheep or poultry.

It includes such work as planting crops, cultivating, pruning, feeding and caring for livestock, harvesting (see special rules for fruit, vegetable and tobacco harvesters) and transporting\* produce to market.

*\*Note: Only an employee hired directly by a farmer and not a trucking company employee is considered a farm worker.*



Farm workers as described above are covered by all the standards with the exception of:

- hours of work protection
- minimum wages
- overtime
- public holidays
- vacation pay

*Fruit, vegetable and tobacco harvesters*

Special rules apply to a person employed on a farm who is harvesting fruit, vegetables and/or tobacco for *marketing or storage*. All of the standards apply to fruit, vegetable and tobacco harvesters with the exception of:

- hours of work protection
- overtime

The following standards have special rules for fruit, vegetable and tobacco harvesters:

- Minimum wages  
See minimum wage rates on page 5 of this fact sheet.
- Public holidays  
This provision applies after 13 or more weeks of employment.
- Vacation pay  
This provision applies after 13 or more weeks of employment.

**Are there other agricultural workers covered by special rules?**

Yes. Those working in the following occupations are **eligible** for minimum wage and vacation pay but are **not eligible** for overtime pay, public holiday pay or the hours of work limitations. The exception is the right to a 30-minute meal break after five hours of work in:

- landscape gardening
- mushroom growing
- the growing, transporting and laying of sod
- the growing of flowers, trees or shrubs for the retail or wholesale trade
- the breeding and boarding of horses on a farm
- the keeping of fur-bearing animals, fishers, foxes, lynxes, martens, minks or racoons for propagation or the production of pelts for commercial purposes.

### Processors, Canners and Packers

People who are hired to process, can or pack fresh fruits and vegetables or whose employment is directly related to the distribution of these products by a canner, processor or packers are **entitled** to:

- **Hours of work protection**  
A permit from the Ministry of Labour must be obtained and posted if employees are asked to work in excess of 8 hours per day or 48 hours per week.
- **Minimum wage**  
See minimum wage rates section in this fact sheet.
- **Public Holidays**  
This applies after 3 months employment. (Refer to the Public Holidays fact sheet for more information.)
- **Vacation Pay**  
Employees are entitled to receive 4% of their total earnings as vacation pay, regardless of how long they have worked.
- **Overtime**  
Overtime pay is one and one half times the regular hourly wage.

Employees who work no more than 16 weeks in a year for the employer are entitled to receive overtime pay after 50 hours in a workweek.

Employees who work more than 16 weeks in a year for the employer are entitled to receive overtime pay after 44 hours in a workweek.

### Hotel, motel, tourist resort, restaurant and tavern industry

People who work in this industry are covered by all the standards in the Act.

*If they get room and board* they are covered by all of the standards in the Act, though the following special provisions apply:

- Employees who work 24 weeks a year or less for the employer are entitled to receive overtime pay after 50 hours in a workweek. Overtime pay is one and one half times the regular hourly wage.
- Employees who work 16 weeks or less are not entitled to public holiday pay.



## Minimum Wage

The minimum wage is the lowest hourly wage an employer can pay an employee. This covers all employees including full-time, part-time and seasonal employees.

### Minimum Wage Rates:

General employees (includes domestic and harvest employees) .....	\$ 6.85
Homeworkers .....	\$ 7.54
Students (under 18).....	\$ 6.40
Liquor servers.....	\$ 5.95

Hunting/fishing guides get a minimum daily rate

- for five (5) hours or more in a day .....	\$68.50
- for less than five (5) hours .....	\$34.25

### Room and Board

Maximum room and meal allowances that can be used to calculate the minimum wage rate for general employees are:

Room * (weekly)	
- private .....	\$31.70
- non-private or shared .....	\$15.85

### Meals

- each meal.....	\$ 2.55
- weekly maximum .....	\$53.55

### Room\* and Meals (weekly)

- with private room.....	\$85.25
- with non-private or shared room.....	\$69.40

Deductions can be made **only** if the employee gets the meals and occupies the room.

\* Room must be reasonably furnished, supplied with clean bed linen and towels and reasonably accessible to proper toilet and wash-basin facilities.

### Fruit, vegetable and tobacco harvesters (only) weekly housing

- serviced** maximum.....	\$99.35
- unserviced maximum.....	\$73.30

\*\* Includes heat, light, fuel, water, gas or electricity provided at employer's expense.

*Note: Housing accommodation for these employees must have at least a kitchen with cooking facilities; two bedrooms or a bedroom and a living room; and a private toilet and washing facilities.*

Gross pay must add up to at least the minimum wage before any deductions are taken off (such as CPP, EI, income tax and room or meals).

### **What happens if a seasonal worker is terminated?**

Termination of employment is when an employee stops working for an employer. Other words used to describe termination include "let go", "discharged", "dismissed" or "fired".

An employer can terminate an employee at any time. However, an employer is required to give written notice to employees who have worked for three (3) months or more, **unless**

- the employees have been hired for a definite term or task

*or*

- the employees are guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

For more information please see the fact sheet "Termination of Employment", or contact your local Ministry of Labour office.

### **What is severance pay and are seasonal workers entitled to it?**

Severance pay is money paid by an employer to some employees who lose their jobs. It is paid in recognition of years of service. Some seasonal employees are entitled to severance pay if:

- they have worked five years or more for the same employer; and
- the employer is in one of the following two groups:
  1. the employer has a payroll in Ontario of at least \$2.5 million a year; or
  2. the employer is no longer going to be carrying on all or part of the business, *and* 50 or more employees will lose their jobs for this reason within a six-month period.



Employees who qualify for severance pay are entitled to receive one week's regular pay for each year of employment up to a maximum of 26 weeks' regular pay.

For more information please see the fact sheet "Severance Pay" or contact your local Ministry of Labour Office at 416-326-7160 or 1-800-531-5551.

### Where to get more information

- Visit the Ministry of Labour Web site at <http://www.gov.on.ca/lab/es/ese.htm> to see all of the fact sheets and "The Employer's Guide to the Employment Standards Act".
- All of the fact sheets can be accessed through the ministry's fax-on-demand system at 416-326-6546.
- Call 416-326-7160 or 1-800-531-5551 to contact the nearest Ministry of Labour office or check the Web site at <http://www.gov.on.ca/lab/mol/contacte.htm>

### Fact sheets available:

How to File a Claim

Minimum Wage

Hours of Work

Overtime Pay

Public Holidays

Vacation Pay & Vacation with Pay

Pregnancy Leave

Parental Leave

Homeworkers

Domestic Workers

Working in Retail

Agricultural Workers

Temporary Layoff

Termination of Employment

Severance Pay

Seasonal Work

**Please Note:** This fact sheet is provided for your convenience and information only. It is not a legal document. For further information and precise interpretation, please refer to the *Employment Standards Act* and Regulations.

